

**Proposed Substitute
Bill No. 116**

LCO No. 3339

**AN ACT CONCERNING CAREGIVER AGREEMENT REQUIREMENTS
FOR MEDICAID APPLICANTS OR RECIPIENTS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) (a) For purposes of this
2 section, "caregiver agreement" means a written agreement between a
3 Medicaid applicant or recipient and a family member of such applicant
4 or recipient in which the Medicaid applicant or recipient agrees to pay
5 the family member for providing services to the applicant or recipient.
6 The Department of Social Services shall not impose a penalty for
7 improper transfer of assets on a Medicaid applicant or recipient for
8 payments made to a family member pursuant to a caregiver
9 agreement, provided the agreement satisfies the provisions of this
10 section and the applicant or recipient establishes that the services
11 avoid or delay the applicant's or recipient's (1) placement in a nursing
12 home facility, or (2) need for home and community-based services
13 provided under a Medicaid waiver. An applicant or recipient may
14 satisfy the requirements of subdivision (1) or (2) of this subsection by
15 providing a signed statement from a health care professional licensed
16 pursuant to section 20-94a, 20-12b or 20-13 of the general statutes. The
17 statement shall identify the health needs of the applicant or recipient
18 and how the care provided by a family member avoided or delayed
19 placement of the applicant or recipient in a nursing home facility or a

20 Medicaid waiver program for home and community-based services.

21 (b) For purposes of determining eligibility for Medicaid payment for
22 long-term services, caregiver agreements executed on and after the
23 effective date of this section shall:

24 (1) Be executed prior to the delivery of services;

25 (2) Be signed and dated by the applicant or recipient and the family
26 member who provides the services with at least one signature
27 acknowledged before a notary public;

28 (3) Include the frequency, location and duration of services that will
29 be provided;

30 (4) Provide for payment to the provider of services on a daily,
31 weekly, biweekly or monthly basis for services received and prohibit
32 prepayment for the provision of such services;

33 (5) Provide for payment for services at rates (A) not more than the
34 average private pay rates for home and community-based services
35 determined and published annually by Connecticut's Partnership for
36 Long-Term Care through the Office of Policy and Management, and
37 (B) for those services for which no rate is so published and posted, not
38 more than twice the state minimum wage at the time the services were
39 provided;

40 (6) Allow for modification of the agreement only by mutual written
41 agreement of the parties;

42 (7) Allow for termination of the agreement by either party at any
43 time and only in writing;

44 (8) Include only those services that are not duplicative of services
45 provided by others, including, but not limited to, services provided by
46 a paid family member during the same time period services are
47 provided by a paid employee of an agency or a volunteer; and

48 (9) Not provide payment for (A) social activities or companionship,

49 (B) services provided while the applicant or recipient is in a nursing
50 home or other health care facility, or (C) travel by the provider of
51 services to or from the residence of the applicant or recipient, provided
52 travel from an applicant's or recipient's home to medical and other
53 appointments may be reimbursed at standard mileage rates for
54 business travel pursuant to federal tax law.

55 (c) In determining eligibility for Medicaid, the department may
56 require an applicant or recipient to provide, in addition to other
57 documentation, documentation establishing that the applicant or
58 recipient of services has complied with state and federal tax
59 requirements governing payments made to a provider of services
60 pursuant to a caregiver agreement.

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| This act shall take effect as follows and shall amend the following sections: | | |
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| Section 1 | <i>from passage</i> | New section |
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